

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7374

BILL NUMBER: SB 238

NOTE PREPARED: Apr 7, 2009

BILL AMENDED: Apr 6, 2009

SUBJECT: Crimes Against Animals.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR: Rep. Sullivan

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Condition of Bail, Probation, or Parole:* The bill authorizes the court, as a condition of bail or parole, or the parole board, as a condition of parole, to prohibit a person from owning, harboring, or training an animal, and, if the person is prohibited from having direct or indirect contact with an individual, from having direct or indirect contact with any animal belonging to the individual.

Reporting Suspected Animal Cruelty: It provides that a veterinarian or registered veterinary technician may report a suspected incident of animal cruelty under the law concerning offenses relating to animals to a law enforcement officer.

Animal Cruelty: The bill provides that a person neglects an animal for purposes of the animal cruelty statute if the person restrains the animal in a manner that causes the animal to suffer: (1) serious permanent disfigurement; (2) serious temporary disfigurement; (3) permanent or protracted loss or impairment of the function of a bodily part or organ; or (4) a fracture. It also provides that a person neglects an animal if the person fails to provide reasonable medical care for an animal's injury or illness.

Animal Torture: It broadens the definition of torturing an animal by administering poison by applying the definition to all vertebrate animals. (Current law applies only to dogs or cats.)

Abandoning or Neglecting an Animal: It makes abandoning or neglecting an animal a Class A misdemeanor, and enhances the penalty to a Class D felony if the person has a prior conviction.

Killing a Domestic Animal: The bill makes it killing a domestic animal, a Class D felony, for a person to knowingly or intentionally kill a domestic animal without the consent of the owner of the domestic animal.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Summary:* The bill could increase the costs of incarceration and the fines received by adding to the conditions of bail, probation, or parole; increasing the penalties for animal cruelty and beating an animal in certain circumstances; and by adding to the definition of animal neglect. Also, the bill could increase the reports of suspected animal cruelty by allowing a veterinarian or registered veterinary technician to report to law enforcement officers.

Conditions of Bail, Probation, or Parole: Violation of a condition of bail, probation, or parole could result in an offender serving a period of incarceration or it could extend the period the offender is under community supervision. If an offender is supervised in the community on bail, probation, or parole for a longer period of time, courts may need more staff to supervise more offenders. Any effects of this bill would be at the court's or parole board's discretion.

Abandoning or Neglecting an Animal and Killing a Domestic Animal: The bill would increase the penalty for cruelty to an animal from a Class B misdemeanor to Class A misdemeanor, or for a prior conviction, to a Class D felony. The bill also adds to the definition of neglect which is an element of the crime of animal cruelty, and it applies to any person who has custody of an animal rather than only applying to the owner. Additionally, it would create a Class D felony for animal fighting if the offender has a prior conviction. The bill would establish killing a domestic animal without the owner's consent, a Class D felony. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail.

A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Animal Torture: There are no data to indicate how many offenders may be convicted of cruelty to an animal, if the definition of torture by poisoning is changed to include all vertebrate animals. The bill would separate the offense of animal torture or mutilation from other animal cruelty, maintaining the Class D felony for the offense.

Background-

Bail, Probation, or Parole: When a court finds that a person who is on probation has violated a condition set by the court, the court can only impose one of the following sanctions:

1. Continue the person on probation with or without modifying or enlarging the conditions;
2. Extend the person's probationary period for not more than one year beyond the original probationary period; or
3. Order execution of all or part of the sentence that was suspended at the time of the initial hearing.

State Incarceration Expense: The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was

\$69,223.

Explanation of State Revenues: *Medical Care:* There are no data available to indicate if more offenders would be convicted of cruelty to an animal, a Class B misdemeanor, if failing to provide reasonable medical care for an animal's injury or illness is added to the definition of the crime.

Abandoning or Neglecting an Animal and Killing a Domestic Animal: Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor or a Class D felony rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000 and for a Class D felony is \$10,000. Court fees of \$120 would remain unchanged.

Animal Torture: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: *Abandoning or Neglecting an Animal, Killing a Domestic Animal, and Animal Torture:* Costs to local governments could increase for longer periods of incarceration. The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. However, if an offender is sentenced to state prison for a Class D felony rather than to a county jail for a Class A or a Class B misdemeanor, the costs to the county may be reduced. The average daily cost of housing a prisoner is an approximately \$44.

Explanation of Local Revenues: *Abandoning or Neglecting an Animal, Killing a Domestic Animal, and Animal Torture:* Court fees of \$120 would remain unchanged..

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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